

REMARKS

This amendment responds to the final office action dated June 18, 2008.

The Examiner rejected claims 1-4, 12, and 16, under 35 U.S.C. § 103(a) as being obvious over the combination of Thompson et al., U.S. Patent Pub. No. 2003/0018973 (hereinafter Thompson) in view of Finseth et al., U.S. Patent No. 6,754,906 (hereinafter Finseth). The Examiner rejected the remaining claims, each of which depends from independent claims 1, under 35 U.S.C. § 103(a) as being obvious in view of respective combinations, each involving Thompson and Finseth as the primary combination, and each rejection being premised on the assumption that Thompson and Finseth together make obvious all the limitations of independent claim 1. Claim 4 has been canceled.

At the outset, independent claim 1, recites the limitations of: “receiving a first instance of a signal associated with the depression of a button on a remote . . . and in response to the receipt of said first instance of said signal, presenting first informational material to said user in a second display mode of said presentation device” and “receiving a second instance of said signal while said first informational material is displayed to said user, and in response to the receipt of said second instance of said signal, presenting second informational material to said user while said display device is tuned to said user-selected channel.” The Examiner indicates that Thompson discloses “first informational material” in the form of a programming guide having a displayed list of channels, and that Finseth discloses “second informational material” in the form of “additional guide information.”

With this in mind, the applicant has further amended claim 1 to recite the limitation of “where said first and second informational material, respectively, are sequentially adjacent ones in a list of preferred informational material for said user and maintained on said video presentation device, wherein a relative ranking between said first and said second informational material is automatically determined based upon the duration that said user views respective instances of said first and second informational material, calculated over a temporal time period.” Neither Thompson nor Finseth disclose or suggest automatically ranking the electronic programming guide of Thompson relative to the “additional guide information” of Finseth, let alone doing so on the basis of the amount of time a viewer views the respective programming

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guide/additional guide information. At best, Thompson discloses ranking channels within the programming guide, i.e. a ranking that is completely internal to what the Examiner asserts is the "first informational material." This ranking of Thompson, however, has no bearing on the claimed "second informational material."

Therefore, claim 1 patentably distinguishes over the cited combination of Thompson and Finseth. Moreover, because the remaining claims depend from claim 1, and the respective rejections of each of these dependent claims is premised on the assumption that claim 1 is obvious in view of the combination of Thompson and Finseth, all pending claims are patentably distinguished over the cited prior art.

In view of the foregoing amendments and remarks, the applicant respectfully requests reconsideration and allowance of claims 1-3 and 5-16.

Respectfully submitted,



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